

No 56. Home of Slaigdane behoved to procure her subscription, or otherwise the said minute behoved to expire.

Fol. Dic. v. 2. p. 218. Kerse, MS. fol. 44.

. Haddington reports this case :

1611. *January 17.*—A MINUTE of contract of the alienation of the liferent of a wife, containing her own name and her husband's, and being only subscribed by the husband, bearing a clause of extension ay while all the parties be sure, it will not be found that the buyer will be sure unless the wife subscribe, and caution offered by her husband to warrant the cloke, will not supply that, because it is but a ground of an action, and no perfect security. A notary receiving in his hands an evident deposited and to be kept by him while diverse conditions be performed, if he deliver the writ to the party in whose favour it is made before the conditions be performed, and that thereby it be made the party's evident, albeit thereby the conditions of the consignation or the evidents cannot be proved against the haver of the evident but by his own oath, yet the said conditions may be proved against the notary by the witnesses inserted, and being proved, he will be condemned in the damage and interest of the party.

Haddington, MS. No 2097.

No 57.

1611. *June.*

GRIERSON *against* HERRIES.

IN an action by Sir William Grierson of Lag and George Herries, for poinding of the ground for an annualrent of L. 10, the LORDS sustained a renunciation to be proved by witnesses *omni exceptione majores*, anent the delivery of the money, and of the evidents to be cancelled and destroyed, in favour of the defender, who was infest in the lands in liferent, by virtue of the contract of marriage.

Kerse, MS. fol. 259.

No 58.

1616. *March 19.*

EDMONSTON *against* HAMILTON.

IN a reduction of a decret of removing, pursued by William Edmonston against John Hamilton of Kinaber, the LORDS found a reason relevant upon a promise made, that he should bruik for an year, which promise was made after the warning, and before the sentence, relevant to be proved by witnesses.

Fol. Dic. v. 2. p. 220. Kerse, MS. fol. 189.